

UNITED STATES DISTRICT COURT
DISTRICT COURT OF MASSACHUSETTS

DOCKET NO: 04-30202-A

404-666-9 A 9:53
*FILED
U.S. DISTRICT COURT
OF MASS.*
**MOTION TO
DISMISS**

DONALD RENKOWIC,
Plaintiff

v.

FRANKLIN COUNTY,
FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL,
SHERIFF FREDERICK MACDONALD,
SUPERINTENDENT BYRON,
DEPUTY SUPERINTENDENT SHEPERD,
DEPUTY SUPERINTENDENT FRITZPATRICK,

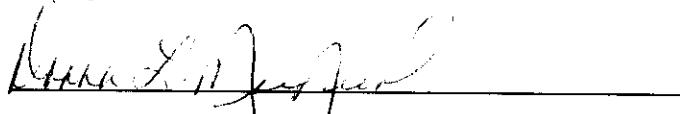
Defendants

NOW COMES, the Franklin Regional Council of Governments, by and through its attorney, Donna L. MacNicol, and hereby requests that this Honorable Court dismiss the Franklin Regional Council of Governments, County Commissioners and Franklin County as parties to the above-captioned matter pursuant to FED. R. Civ Pro. Rule 12(b)(6), failure of the pleading to state a claim upon which relief can be granted, and 12(b)(8), misnomer of a party.

Plaintiff in the suit has named Franklin County as a Defendant and served the Franklin Regional Council of Governments and County Commissioners. None of these entities are appropriate parties to this suit, nor can a claim be stated upon which relief can be granted. As reasons for this Motion, please see the Memorandum attached hereto.

Respectfully submitted,
Franklin Regional Council of Governments
Franklin County
County Commissioners

By



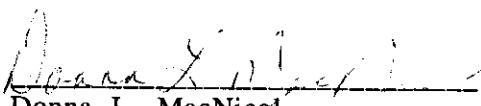
Donna L. MacNicol, Esq.
MacNicol, Tombs & Brown, LLP
P.O. Box 985
Greenfield, MA 01302-0985
Tel: (413) 772-8600
BBO# 312230

Dated: December 8, 2004

CERTIFICATE OF SERVICE

I, DONNA L. MACNICOL, counsel for the Defendant Franklin Regional Council of Governments herein hereby swear and affirm that I have this date served a copy of the foregoing Motion and Memorandum, upon the Plaintiff by mailing a copy, postage pre-paid to Plaintiff, Donald Renkowic, 160 Elm Street, Greenfield, MA 01301.

Date: December 8, 2004


Donna L. MacNicoll